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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,893	07/23/2001	Jose Walter		3549

7590 05/31/2002

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EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 05/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,893

Applicant(s)

WALTER, JOSE

CW

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- a. It does not identify the mailing or post office address of each inventor. A mailing or post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing or post office address should include the ZIP Code designation. The mailing or post office address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.
- b. It does not identify the citizenship of each inventor.
- c. It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate

Art Unit: 3732

paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 3, 5-10, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, it is unclear if "an opening" in line 2 is in addition to "at least one opening" in claim 1, and the recitation "can accept" is indefinite in that it is not clear whether the limitation following "can accept" is part of the claimed invention. In claim 3 the limitation "the broadened areas" lacks sufficient antecedent basis. In claim 5, the limitations "the superior surface" and "the exit" lack sufficient antecedent basis. In claim 6, it is unclear whether "a second tray" in line 3 is supposed to be a third tray or one of the two trays. In claim 9, it is unclear if "one opening" in line 1 is in addition to "at least one opening" in claim 1. In claim 10, it is unclear if "two opening" in line 1 is in addition to "at least one opening" in claim 1. In claim 14, the limitation "said opening" in line 3 lacks sufficient antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6-8, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Cho (5,622,497). Cho discloses an articulator tray 18 having at least one opening 44 with repeating broadened and narrowed regions (column 4 line 47) in the opening, wherein the opening extends at least $\frac{1}{2}$ of the length of the tray as seen in figure 2. As to claim 2, Cho shows an articulator 10 comprising two trays 16, 18; the opening can accept pins, spine or stone. As to claim 4, a spine 50 is inserted into the opening. As to claim 6, the trays have attached hinge portions 132, 134 and a completed hinge means 136, 140. As to claim 7, the hinge means allow both horizontal and lateral movement (column 2 line 50). As to claim 8, the hinge means is a ball joint (column 7 line 29). As to claim 13, Cho shows a method of making a model from an impression comprising on a tray having an opening with repeating broadened and narrowed regions in the opening, placing a spine in the opening, loading stone onto the tray, forcing the stone against an impression, allowing the stone to harden (column 5 lines 8-33). As to claim 14, Cho shows a method of making a model from an impression comprising loading stone onto a tray 18 having an opening with repeating broadened and narrowed regions in the opening with sealing means at the bottom of the opening 60, allowing stone to partially harden, forcing the stone on the tray against an impression 82, and allowing the stone to harden (column 5 lines 23-33).

4. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Browne et al. (4,283,173). Browne et al. discloses an articulator tray having at least one opening 6 with repeating broadened and narrowed regions 9 in the opening, wherein the opening

extends at least $\frac{1}{2}$ of the length of the tray and the opening is broad at the superior surface of the tray as seen in figures 1-4.

5. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Mogensen (6,149,428). Mogensen discloses a method of making a model from an impression comprising on a tray having a continuous opening with multiple receptor spaces, inserting at least two pins into the receptor spaces, loading stone onto the tray, forcing the stone against an impression, allowing the stone to harden (column 1 line 63 – column 2 line 7).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Mogensen. Cho discloses an articulator tray that shows the limitations as described above; however, Cho does not show indexing pins inserted into the opening. Mogensen teaches an articulator tray with indexing pins inserted into the opening (column 2 lines 17-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tray of Cho to have the pins of Mogensen. One would have been motivated to make such a modification to hold the sections of the model fixed and secured during subsequent remodeling. As to claim 9, Mogensen teaches a tray having at least one opening with multiple receptor spaces.

Art Unit: 3732

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Zeiser (4,608,016). Cho discloses an articulator tray that shows the limitations as described above; however, Cho does not show two openings. Zeiser teaches a tray having two openings best seen in figures 1 and 3. It would have been an obvious matter of choice to one having ordinary skill in the art to have two openings as well as serve to orient the model as taught by Zeiser. As to claim 11, Zeiser teaches the tray having projections (column 2 line 67).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jinoian et al. (4,957,435) is cited to show the state of the art with respect to an articulator tray.

10. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is (703) 305-0740.



Melba Bumgarner
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NICHOLAS D. LUCCHESI
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